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ABSTRACT

The Office of Civil Rights (OCR) enforces the laws that prevent discrimination on the basis of race, national origin, sex, disability, and age in America's schools, colleges, and universities. To gauge how the department is fulfilling that mission, a description of the OCR's policy-guidance efforts, complaint investigations, and enforcement activities from October 1, 1993, through September 30, 1994, is provided here. The report focuses on: OCR complaint and enforcement activities, including complaint receipts; complaint resolution; complaint workload; disability complaints; limited-English-proficient students; student assignment; racial harassment; sexual harassment; and the effects of policy guidance on discrimination, complaint investigations, compliance reviews, technical assistance, and other compliance activities, such as magnet-schools assistance programs, vocational education, and administrative enforcement actions. A separate section is devoted to management reform, which highlights efforts in setting priorities, in complaint resolution, in the use of technology, and in new ways of doing business. Four appendices list statutory responsibilities and federal relationships, issues on staffing and budgeting, publications of the OCR, and addresses and telephone numbers of regional OCR offices. (RJM)

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ED 422 668

Annual Report to Congress

Fiscal Year 1994

U.S. Department of Education
Office for Civil Rights

EA 029 355

FY 1994 ANNUAL REPORT TO CONGRESS
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FOREWORD

1994 ANNUAL REPORT TO CONGRESS

Discrimination against students is an ugly reality. Racial segregation, racial and sexual harassment, denial of education to students with limited English proficiency, warehousing of severely disabled students, and other less pernicious but equally damaging practices unfortunately continue.

In more than half of the cases determined appropriate for OCR intervention and resolution, OCR requires a recipient of federal education funds to make changes to stop or prevent discrimination against students. In FY 1994, in over 1,400 cases involving many times more students, OCR helped students achieve equal access to educational opportunity by putting an end to discriminatory practices.

OCR is fundamentally a law enforcement agency. OCR's effective operation requires on-site investigations at any of the nation's 16,000 school districts or 3,500 colleges and universities; substantial data analysis; and, to uphold the law and while being fair to both recipients and complainants, a highly trained investigatory and legal staff.

In an era of decreasing staff resources and increasing case loads, OCR is developing new approaches to the resolution of complaints of discrimination. OCR's leadership and innovation are avoiding case backlogging, preserving OCR's ability to assist both recipients and complainants through technical assistance, and combining OCR's enforcement obligations with cooperative approaches to the development of strong, educationally sound remedies to serious civil rights problems.

This report shows that we are on course to enforce the important non-discrimination laws the Congress has enacted. A commitment to the goals of the civil rights compliance program -- equal access, educational excellence, and high standards education for all students -- is an investment that must be made if we are to secure America's future.

Respectfully submitted,

Norma V. Cantú

CHAPTER I COMPLAINT AND ENFORCEMENT ACTIVITIES

This report describes OCR's policy guidance efforts, complaint investigations and enforcement activities conducted during Fiscal Year 1994, from October 1, 1993 through September 30, 1994.

Policy Guidance on Discrimination

Racial Harassment

On March 10, 1994, the Department published investigative guidance on the procedures and analysis that OCR staff will follow when investigating allegations involving racial incidents and harassment against students at all levels of education. The guidance recognizes that harassment on the basis of race, color, or national origin denies students the right to an education free of discrimination and violates Title VI of the Civil Rights Act of 1964. By publishing this guidance and explaining the legal standards involved, OCR hopes to raise awareness among staff and students of educational institutions regarding their rights and responsibilities with regard to this form of discrimination.

Race-Targeted Financial Aid

The Department published final policy guidance in the Federal Register on February 23, 1994, clarifying the extent to which colleges can use race-targeted financial aid to provide equal educational opportunity and a diverse educational environment for all students consistent with Title VI. The policy guidance sets forth principles describing the circumstances in which consideration of race or national origin in the award of financial aid is permissible under Title VI and relevant case law.

Higher Education Desegregation

On January 31, 1994, OCR published a notice in the Federal Register on the application of the U.S. Supreme Court decision in *United States v. Fordice*. The Supreme Court enunciated standards for determining whether a state has met its obligation to dismantle a prior *de jure* segregated system of higher education under the Fourteenth Amendment to the U.S. Constitution and Title VI. The notice makes it clear that the standards enunciated by the U.S. Supreme Court will be used by OCR in determining whether states have met their obligations to affirmatively dismantle all remnants of their prior segregated systems.

Complaint Investigations

Complaint Receipts

In FY 1994, OCR devoted a significant portion of resources to investigating complaints. OCR received 5,302 complaints alleging discrimination on the basis of race, national origin, sex, disability or age by a recipient of Federal financial assistance. OCR's primary goal was to professionally and appropriately resolve those complaints in a timely manner. This has become increasingly difficult as complaints have increased while staff resources have not.

Approximately 52 percent of all complaints filed with OCR alleged discrimination based on disability. Race and national origin complaints accounted for 22 percent of complaints. Eight percent of complaints alleged sex discrimination. The remaining 18 percent of the complaints were filed on multiple discrimination bases, on age discrimination or on other discrimination bases.

Complaint Resolution

OCR resolved 5,752 complaints in FY 1994. In 1,465 cases, or 25 percent, OCR facilitated or required corrective action whereby a recipient of federal funds changed its policies or practices, or changed the situation that was the basis of the complaint to remedy discrimination. 1,301 complaints, or 23 percent, were found to have no substantive basis and did not require corrective action. 2,986 complaints, or 52 percent, were determined to be inappropriate for OCR action, either because the complaint was more appropriately resolved in another forum (where there was pending Federal court litigation, for example), or because OCR could not otherwise proceed with the case (because the complaint was untimely, for example).

Complaint Workload

Fewer complaints were pending at the end of FY 1994 than in FY 1993. There were 1,926 complaints pending at the end of FY 1994. Despite OCR's growing case load, this represented a decrease of 21 percent from the 2,429 complaints pending at the end of FY 1993.

OCR resolved a growing number of complaints by facilitating agreements between the complainant and the recipient. In FY 1994 OCR resolved about 20 percent of its cases by voluntary agreement among the parties.

FY 1994 saw the continued growth of complaints received by OCR. Even with this increase, OCR staff resolved these complaints well within established time frames. However, the complaint statistics do not tell the complete story. The next section describes the impact of some of these cases on the lives of actual students.

Impact of Complaint Investigations on Elementary and Secondary Students' Lives

The issues raised in complaints filed against some of the nation's 16,000 school districts that receive Federal funds concerned the basic right of access to equal education by individuals as well as groups. The real-life stories told below are drawn from complaints in which OCR secured corrective action from school districts to resolve civil rights violations.

Disability Complaints

Complaints alleging discrimination on the basis of disability can be filed under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990. In FY 1994, 62 percent of elementary and secondary level complaints alleged discrimination due to a student's disabling condition. OCR resolved a number of complaints in FY 1994 involving some of the most fundamental rights of children with disabilities to equal educational opportunities.

In one case, the Chicago Public Schools (Illinois) categorically placed children with severe cognitive disabilities in private schools. OCR found deplorable conditions in some of the private schools, including instances where restraints were used on students without authorization and practices that denied students privacy during activities of personal hygiene. Some of the schools lacked basic equipment and supplies and individualized education programs were not being implemented. Since standards and procedures for approving these private schools rested with the state, OCR also conducted a companion investigation of the Illinois State Board of Education (ISBE). OCR found ISBE's less stringent criteria governing qualifications for staff and administrators in private schools and their staff/student ratios resulted in the denial of an appropriate education to the students enrolled in such facilities.

Both Chicago and the ISBE adopted agreements that now require equivalent employee qualification standards and teacher/student ratios in public and private schools serving students with disabilities. Procedures are being established to ensure that students with disabilities receive necessary services, equipment, and supplies. OCR is continuing its work to ensure that these agreements are implemented.

Limited English Proficient Students

Denial of access to educational programs to limited English proficient students violates Title VI of the Civil Rights Act of 1964, but lack of language assistance programs and access to educational opportunities continue to be persistent barriers to students with limited English proficiency. OCR found that limited English proficient (LEP) students at an elementary school in New York City were physically isolated. The New York City Board of Education agreed to relocate the special language classes to ensure that the program is no longer separated from the rest of the school. Also, LEP students are now placed with other students in all nonacademic subjects, such as art, music, and physical education. Such adjustments will maximize the opportunity for these students to transition out of LEP programs and into the regular classroom.

Student Assignment

School districts must assign students to schools without regard to their race or national origin. OCR determined that the Alief Independent School District (Texas) created racially identifiable elementary schools by gerrymandering attendance zones and building new schools in areas projected with high minority enrollments. The racial identity of schools was reinforced by assigning large numbers of minority faculty and staff to predominantly minority schools. Also, when overcrowding occurred, white students were transferred to mobile classrooms at other predominantly white schools rather than being sent to schools with substantial numbers of minority students. In light of these findings, Alief submitted a plan for reducing racial isolation at its 19 elementary schools. The plan uses a number of techniques that promote school desegregation and quality education, including school pairing, revised attendance zones and magnet school programs.

Racial Harassment

Other Title VI complaints were filed because of race discrimination. In one such instance, the complainants alleged that the Greenbrier County Public Schools (West Virginia) subjected black students to a racially hostile environment at a junior high school. Students at the school were passing out Ku Klux Klan literature, and at least one white student was physically threatened for being friends with black students. The district agreed to adopt and publish grievance procedures for resolving complaints alleging discrimination based on race and issue a policy condemning racial discrimination and harassment in any activities. Greenbrier also requested and received OCR's assistance in delivering training on race relations.

Sexual Harassment

Discrimination based on sex violates Title IX of the Education Amendments of 1972. In one such case, OCR successfully resolved a complaint which alleged that the Albion School District (Michigan) failed to take appropriate action to address incidents of sexual harassment involving female high school students. In one instance, a female student was subjected to repeated vulgar comments over a three year period from numerous students. The student developed ulcers and stomach problems because of the harassment she received. Other students also were subjected to sexually offensive conduct. The district knew or should have known of the sexually hostile environment of student-to-student harassment, yet failed to take effective corrective action. OCR obtained agreement from the district to develop disciplinary guidelines and assist administrators in determining disciplinary actions to address sexual harassment in all programs and activities. OCR's investigation received state-wide media coverage. As a result, several Michigan school systems asked OCR for technical assistance to address sexual harassment problems proactively.

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Impact of Complaint Investigations on Postsecondary Students' Lives

About 27 percent of all OCR complaints were filed against the nation's colleges and universities in FY 1994. This proportion of postsecondary school complaints has not changed materially over the past six years.

Program Accessibility

The greatest number of complaints against colleges and universities, 46 percent, were filed on the basis of disability status. One complaint was filed with OCR alleging that the main campus of the University of Oklahoma (Norman, Oklahoma) had failed to make certain of its buildings accessible to and usable by persons with disabilities. These buildings included the University's main library and offices administering student affairs, financial support, and career planning. The University agreed to install automated doors at building entrances and relocate critical programs and services to accessible building sites. Also, the University will make staff available to provide library and computer lab assistance upon request by students with disabilities. A similar agreement was reached with Northwestern Oklahoma State University and extended to designating accessible parking spaces, alteration of ramps, drinking fountains and bathrooms, and installation of elevators and new alarm systems. As a result, these colleges will become attractive to students with disabilities rather than being inhospitable due to substantial physical barriers.

Disciplinary Action

The second highest number of complaints filed against colleges and universities, or 33 percent, was on the basis of race and national origin discrimination.

Title VI requires that discipline policies be applied in an even-handed manner to all students, regardless of race or national origin. At West Texas A&M University, in an incident of disorderly conduct, the University called in the police on a black student, resulting in his arrest and incarceration, where white students under similar circumstances were referred to an internal disciplinary process. OCR's intervention resulted in West Texas A&M offering reinstatement and agreeing to reimburse the student for the tuition, fees and costs of books for the courses he could not complete. New procedures will ensure that students are fairly disciplined without regard to their race or national origin.

Sexual Harassment

Twenty-one percent of complaints against colleges and universities alleged sex discrimination. A complaint against the University of California, Santa Cruz, alleged severe and pervasive incidents of sexual harassment, assault and rape on campus and that the University had not responded adequately under Title IX. The continuing inadequacy and unreliability of the University systems and procedures for handling sexual harassment complaints, and in particular the inadequacies of the University response to a group of 1993 complaints of harassment, sexual assault and rape, allowed a discriminatory environment to

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exist for female students on campus. The University entered into a voluntary resolution plan. The agreement grants personal and academic relief to student victims.

Compliance Reviews

Compliance Reviews Initiated

Compliance reviews are an important part of OCR's overall civil rights enforcement responsibilities. Compliance reviews permit OCR to target resources on compliance problems that appear to be serious or national in scope. In addition, OCR can focus limited discretionary resources to balance its enforcement program. Selection of review sites is based on various sources of information, which include survey data and information provided by complainants, education groups, media and the public.

During FY 1994, 153 compliance reviews were begun. This number represents a 51 percent increase in reviews over the prior year. In FY 1994, OCR resolved 90 compliance reviews, the highest number of reviews resolved in the past six years.

Impact of Compliance Reviews on Students' Lives

Compliance reviews conducted during FY 1994 covered a number of high priority educational equity issues.

Limited English Proficient Students

Language minority students must be afforded the opportunity to participate effectively in educational programs offered by school systems. When these students cannot speak and understand English, a school district must provide a program to help them develop English language and other academic competence.

In the Farmington Public Schools (Michigan), OCR found that 196 limited English proficient (LEP) students were not receiving services because of staffing limitations. Most unserved students experienced academic difficulty. At one high school, unserved students had grade point averages between 1.0 and 1.9 (on a 4.0 scale) and test scores ranging from the 1st to 26th percentile. Most of the students who were served received language instruction from paraprofessionals. None of the LEP elementary students received services from a bilingual or ESL certified teacher. Students who spoke no English received only 60 minutes of services per week at one school, although Farmington acknowledged these students needed 250-600 minutes of weekly instruction. The district had objective criteria for exiting students from alternative language services. However, school officials had to discontinue services to LEP students before they met the criteria in order to make room for other students with greater needs. As a result of being dropped, many students were failing one or more subjects. Farmington also had no system for monitoring progress of current or former LEP students and had not conducted an evaluation to ensure its alternative language program is effective in removing language barriers.

Farmington is now making efforts to ensure adequate staffing of its alternative language program. This includes assisting paraprofessionals who are working towards certification in ESL or bilingual education.

Overrepresentation of Minority Students in Special Education Classes

OCR recognizes that special education programs are beneficial to children who need such services. However, care is needed to ensure that children are not inappropriately placed in these programs. In the Alton Community Unit School District #11 (Illinois), the announced policy was to use regular education intervention strategies and assess their success before referring students for special education evaluation. There were no district-wide standards, however, for identifying students who required regular education interventions or who needed to be referred for special education evaluation. As a consequence, some teachers based referral decisions on student behavior or how they felt parents would respond to referral decisions. Students with similar scores on the reading, language, and mathematics sections of the California Achievement Test also were treated differently. Half the teachers interviewed during OCR's compliance review wanted training. A major finding concerned the availability of regular education intervention opportunities -- resource teachers, staff and peer tutoring, before and after school homework and enrichment programs, and structured parent involvement. The schools with these opportunities referred few black students for special education evaluation. In fact, the school with the largest intervention program did not refer any students (minority or non-minority).

After OCR's review, Alton made a number of revisions so all students will have the opportunity to benefit from the regular education program before referral is considered. Each school will now have written student plans specifying regular education interventions and the effectiveness of these plans will be evaluated. Guidelines are being prepared for referring students for evaluations when regular education interventions prove unsuccessful. Under its settlement agreement, Alton also will increase regular intervention opportunities. Alton is now piloting its revised referral system at three schools that enroll more than 1200 students. After the system is refined, based on the pilot, it will be extended to all schools, including secondary schools, at the start of the 1995-96 school year.

Gifted and Talented Programs

School districts must provide equal opportunity for all students to participate in educational programs, including gifted and talented programs. The practices and procedures used in nominating, screening and placing students in gifted and talented programs must not have the effect of denying minority students equal access.

The Denton Independent School District (Texas) operates a gifted and talented program known as EXPO. At the time of OCR's compliance review, there were no black students enrolled in gifted programs at two elementary schools; no black student had ever been enrolled at one of the elementary schools. Hispanic participation was also particularly low.

OCR's review concluded that the underrepresentation of black and Hispanic students was due to the failure of teachers and parents to nominate these students. Most minority parents were unaware they could nominate their children for EXPO. Also, there was evidence that minority parents were not receiving sufficient information about the program and some of the information may have been confusing.

Denton adopted a plan to increase the referral and placement of minority students in EXPO. A community outreach program was established to educate the community and solicit nominations and referrals of minority students. The district also will aim for wider dissemination of information about EXPO by advertising in local and minority-focused newspapers and radio stations and seeking assistance from civic organizations. Training will be conducted each year for school administrators, counselors and teachers with particular reference to the needs of students who may be overlooked in the regular gifted and talented screening process. Several of Denton's neighboring school districts have contacted OCR as a result of this compliance review to obtain assistance regarding increasing the participation of qualified minority students in their own gifted and talented programs.

Athletic Programs

Colleges and universities are required to provide equal athletic opportunities to male and female students. This requirement includes providing an equal opportunity to participate and equivalent benefits and services for men's and women's athletic programs.

At Orange Coast College (California), women comprised 50 percent of the enrollment but only 28 percent of the athletes. The College never made an effort to determine the reasons for the low participation of women in its intercollegiate athletic program.

OCR found disparities in opportunities and treatment of athletes in a number of program areas. The combined disparities resulted in a denial of equal opportunity for women athletes. For example, the women's crew team was provided shells designed for men that were too heavy to use in practice or in competitions. There was no locker room at the boat house available to women when men and women crew teams competed on weekends. The women's softball facility, used by the football team, had dangerous divots resulting in injuries to female athletes. Not one woman received an athletic scholarship.

Scholarships will be awarded to women athletes based in proportion to their athletic participation. Orange Coast has repaired the women's facilities and is working to improve the softball field. The women's crew team will be provided two gender-appropriate racing shells and new guidelines will be put in place promoting women's sports, including posters, flyers, and mailers. These and other changes will result in equal opportunity for male and female athletes.

Technical Assistance

The aim of OCR's technical assistance efforts is to prevent violations of the civil rights laws. Technical assistance is provided through such activities as on-site consultations, conference

participation, training classes, workshops and meetings, as well as through written information and telephone consultations. Although technical assistance is often provided during a complaint investigation or a compliance review, OCR also conducts a broad program of proactive technical assistance outreach.

Technical assistance is delivered to a variety of organizations and their people. For example, OCR's Region IV conducted day-long workshops specifically designed to train in-school administrators on a variety of Title VI and Title IX compliance issues. The workshops were co-sponsored by the respective State Departments of Education and the Southern Desegregation Center. OCR's Region VI conducted parental outreach workshops on the issue of overrepresentation of minorities in special education. Delta State University requested technical assistance in the area of provision of academic adjustments and auxiliary aids to postsecondary students with disabilities. An OCR attorney advisor from OCR's Region X met with Latino parents of limited English proficient and non-English proficient (LEP/NEP) students. The workshop was conducted in Spanish and all of the participants were provided information on equal educational opportunities for language minority students and the responsibilities of school officials in communicating with parents.

In other examples of technical assistance, OCR responded to several requests for assistance from parents with children with disabilities. In one case, a student with cerebral palsy was told she could not go on a school-sponsored trip to Toronto because the district was unwilling to assist the student with her special needs. In a second case, a school district was unwilling to arrange for a nurse so that a student, who requires medication administered through a feeding tube, could go on a field trip with her class. After OCR contacted school officials about the right of all students to participate in extracurricular activities, both districts made the necessary accommodations and the students were able to join their classmates on the field trips. In another case, a parent of a kindergarten student with hemophilia contacted OCR after a school bus driver expressed concerns about transporting her son. After OCR's assistance, the school district provided training about hemophilia to the bus driver and two substitute drivers. OCR received statements of appreciation from school officials for helping to resolve these matters and avoiding expensive and time-consuming investigations.

Other Compliance Activities

In addition to complaint investigations and compliance reviews, other compliance activities are conducted by OCR.

Magnet Schools Assistance Program

OCR works with the Office of Elementary and Secondary Education to certify that applicants of the Magnet Schools Assistance Program (MSAP) will meet nondiscrimination assurances. MSAP funding is intended to reduce, eliminate and prevent minority isolation in elementary and secondary magnet schools. In FY 1994, OCR reviewed the nondiscrimination assurances from 57 school districts that applied for a continuation of their MSAP grants. As a result of these reviews, OCR was able to certify the continued eligibility of these recipients.

Vocational Education

All states develop Methods of Administration (MOA) plans that describe how they will monitor their own programs and those of their sub-recipients to ensure compliance with Federal civil rights laws, including those enforced by OCR. OCR is responsible for certifying that each state has met its MOA commitments.

For 14 years, OCR required burdensome annual reports from each of the states and other entities. OCR found this process inefficient and ineffective. In the spirit of Reinventing Government, OCR strengthened the civil rights roots of MOAs, provided greater flexibility to states, used Federal resources more efficiently, and cut burdensome reporting requirements.

As part of the redesign process, OCR gave two-thirds of the states an option of not submitting an MOA report in 1994. OCR conducted a national conference for the states' MOA coordinators to provide them with up to date information on high priority civil rights issues and to discus options for redesigning the MOA process. The redesigned MOA process will promote more effective partnerships with the states in achieving nondiscrimination in vocational education.

Administrative Enforcement Action and Referals to DOJ

Illinois State Board of Education

In a complaint investigation, OCR determined that incarcerated students with disabilities were being denied special education services in the Cook County Jail School, which is operated by the Chicago Public Schools. After OCR's attempts at securing compliance through a settlement agreement failed, the Department of Justice (DOJ) intervened in *Donnell C. v. Illinois State Board of Education*, a private lawsuit involving similar issues. The parties are currently discussing a consent decree.

Livingston Parish Louisiana School Board

This case involved the failure of the school board to have a system of procedural safeguards in place to identify, evaluate and place children with disabilities in accordance with the requirements of Section 504 of the Rehabilitation Act of 1973. Before an administrative enforcement hearing could be held, the school district agreed to a settlement which included all necessary corrective action, including the reimbursement for the private placement of the complainant's son, an evaluation of the complainant's son for special education and related services by qualified personnel agreed to by the parents and the school district, and the adoption by the school district of notice procedures of due process rights.

Southwestern Virginia Training Center

This case involved the policy of the training center, a state operated facility for the developmentally disabled, of providing no accommodation for employees with physical

disabilities who are fully able to perform the essential functions of their jobs. The case was initiated as the result of a complaint from a residential aide at the facility who was fired because of this policy. OCR determined that the aide had performed successfully for a number of years in her position. She was released because of a physical condition which resulted in her being unable to lift in excess of 20 pounds.

After extensive efforts at voluntary compliance, the Center finally agreed, after administrative enforcement proceedings were initiated, to amend its discriminatory policy. However, the Center refused to reimburse the employee for lost wages and benefits. As a result, an administrative enforcement hearing was conducted in June 1994. A decision is expected during FY 1995.

San Juan School District

The Department of Justice filed a complaint in the case of *Sinjani v. Board of Education of San Juan School District*. This matter originated as an OCR compliance review conducted in 1991. The district was found in violation of Title VI for not having procedures in place for identifying and assessing LEP Native American students. There was no overall approach to educate LEP students and ensure they have an opportunity to learn English. Native American students also were placed in special education classes without assurances that placement was not based on their English language ability. The district entered into a corrective action plan. However, after receiving several monitoring reports under the plan it became clear that the district was not fulfilling its commitments. In February 1994, OCR referred the matter to the Department of Justice, which then intervened as a party in the private lawsuit. The case is currently pending in Federal district court.

CHAPTER II MANAGEMENT REFORM

OCR has set its course for 1995 and beyond. As a result of the Assistant Secretary's town meetings, focus groups and other forums, the concerns, hopes and ideas of the education community have been brought to light. In each region, OCR staff listen to their local communities. Our continued outreach will provide the direction for OCR's enforcement activities and staff resources.

Setting Priorities

OCR's commitment is to effectively facilitate strong, educationally sound remedies to civil rights problems. OCR's strategy is clear.

OCR must direct itself toward impact on students' lives. OCR will maximize the impact of available resources on civil rights in education. OCR will consider as broad a range of input as practicable in the setting of its priorities to ensure that OCR addresses the most acute problems of discrimination. OCR will provide tangible assistance to the greatest number of students possible.

OCR must work in partnership with students, parents and educators. OCR will help others to learn to solve their problems of securing equal access to quality education. OCR will focus on systemic education reform that enables communities throughout the nation to understand, commit to and implement strategies that provide opportunities for all to learn.

Finally, OCR must invest in people. OCR will recruit and retain the highest calibre staff, and will develop the training and tools they need to become most effective. OCR will provide an environment that values participation, innovation and change. OCR will model diversity, fairness and concern for employee well-being.

A Focus on Complaint Resolution

OCR has, with extensive internal and external consultation, fundamentally re-engineered its approach to responding to individual complaints of discrimination. These changes move OCR from a system of required investigative procedures to one of flexible resolution approaches. This customized approach to each complainant's concerns is embodied in OCR's new Complaint Resolution Manual. All regional employees have received complaint resolution training based on the new approach. Preliminary data show substantial improvement in case resolution timeliness, and, anecdotally, in customer satisfaction. Under the new approach, OCR resolves more complaints of discrimination with fewer staff. OCR's facilitation of voluntary resolution agreements acceptable to both the complainant and the recipient has doubled.

Equally notable, an OCR team produced the new Complaint Resolution Manual in 14 days. From first meeting to actual implementation took only 60 days.

A Focus on Technology

When OCR's mainframe-based case tracking system proved too inflexible for the new complaint resolution process, a team of users and programmers created a PC-based case information system from the ground up--in about a month. Users and developers continue to work together to perfect the system and ensure that needed data is provided quickly and efficiently to line staff, managers and external users.

Two additional technology initiatives were started in FY 1994. The first will finally network and provide electronic communication among all of OCR's regional offices. The second will provide on-line access to critical case resolution resources through an OCR Electronic Library.

A Focus on New Ways of Doing Business

OCR is redeploying staff to improve productivity. OCR is delivering a stronger civil rights enforcement program, focusing energy on internal and external customer service, reducing formal layers of review, and moving the maximum number of staff to program activities.

OCR has eliminated bureaucratic practices and procedures that impeded fulfillment of its mission. In October 1993, employees in Region II began a unique and highly successful program to improve the Region's operation and service to Office for Civil Rights customers. The structure in Region II had been a long-standing OCR example of overly rigid and cumbersome systems, operating in a classical hierarchial structure. The Region piloted case resolution teams that take on most programmatic responsibilities, eliminating paper-shuffling and multiple layers of review.

OCR accomplished major changes through its new approach. OCR established criteria for measuring success in terms of efficiency, quality of work products and improved morale. Working with a pilot group and a control group, data were collected showing major improvements in all of these areas. For example, the average number of days for complaint resolution under the old bureaucratic structure was 169 days. The new teams reduced the average number of days to resolve a complaint to 129, a 24 percent improvement.

These innovative approaches, begun in Region II and replicated in other parts of the organization, earned OCR the Vice President's Heroes of Reinvention ("Hammer") Award. OCR is justifiably proud of this award. All the same, OCR will continue to seek out opportunities to more efficiently and effectively develop strong, educationally sound remedies for students facing discrimination.

APPENDIX A

Statutory Responsibilities and Federal Relationships

The Office for Civil Rights (OCR) in the U.S. Department of Education (ED) is a law enforcement agency. Its primary responsibility is to ensure that recipients of Federal financial assistance do not discriminate against students, faculty, or other individuals on the basis of race, color, national origin, sex, disability, or age.

OCR is responsible for enforcing the following Federal civil rights laws:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin, 42 U.S.C. 2000d et seq. (implementing regulation at 34 C.F.R. Parts 100 and 101);

- Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in educational programs, 20 U.S.C. 1681 et seq. (implementing regulation at 34 C.F.R. Part 106);

- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of physical and mental disability, 29 U.S.C. 794 (implementing regulation at 34 C.F.R. Part 104);

- The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age, 42 U.S.C. 6101 et seq. (implementing regulation at 34 C.F.R. Part 110); and

- Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability.

Under the first four statutes, OCR has jurisdiction over programs and activities that receive Federal financial assistance. For educational institutions, the Civil Rights Restoration Act of 1987 defines programs and activities receiving Federal assistance as encompassing all the operations of a recipient of such assistance. Under the Americans with Disabilities Act (ADA), OCR has jurisdiction over public elementary and secondary education systems, public institutions of higher education, vocational education programs and public libraries.

OCR also has been delegated civil rights enforcement authority by eleven other Executive Branch departments and agencies.

The civil rights laws enforced by OCR extend to a wide range of recipients of Federal funds. Recipients covered by these laws include all state education and rehabilitation agencies and their subrecipients, as well as the education and rehabilitation agencies of the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United

States. These recipients also include nearly every school district and postsecondary institution; thousands of proprietary schools, libraries, museums, and correctional facilities; and other institutions that receive Federal financial assistance from ED.

In carrying out its civil rights enforcement responsibilities, OCR works with other Federal agencies, including the Department of Justice (DOJ), the Equal Employment Opportunity Commission (EEOC), and the Federal Mediation and Conciliation Service (FMCS).

Under Executive Order 12250, DOJ is responsible for coordinating Federal Government agencies' enforcement of Title VI, Title IX, Section 504, and other Federal laws that prohibit discrimination on the basis of race, color, national origin, sex, disability, or religion in programs and activities receiving Federal financial assistance. Primary enforcement responsibility remains with the individual agencies, while leadership and coordination responsibility, in areas other than employment, is vested in DOJ. Pursuant to Executive Order 12250, other Federal agencies have delegated authority to OCR to conduct civil rights compliance activities in educational institutions on their behalf.

EEOC has primary coordinating authority under Executive Order 12067 for complaints of employment discrimination. OCR generally refers to EEOC those Title VI and Title IX complaints that allege discrimination solely in employment and that are not systemic or class-based in nature. Section 504 employment complaints, as well as systemic and class-based employment complaints, under Title VI and Title IX, are generally retained for processing by OCR.

EEOC also has jurisdiction in employment cases alleging age discrimination. When complaints of discrimination in employment on the basis of age are filed with OCR, they are transferred to EEOC for investigation and resolution because OCR has no jurisdiction over these cases under the Age Discrimination Act.

OCR shares responsibility with FMCS for processing age discrimination complaints that do not involve employment. OCR screens complaints alleging age discrimination to determine whether it has jurisdiction. If jurisdiction is established, the complaint is forwarded to FMCS for voluntary resolution. If FMCS is unsuccessful, or either party does not agree to mediation by FMCS, OCR investigates the complaint in the same manner as complaints alleging other types of discrimination.

DOJ has primary authority for complaints under the ADA. Under Title II of the Americans with Disabilities Act, DOJ has delegated jurisdiction to ED/OCR for investigating complaints alleging discrimination on the basis of disability that are filed against public elementary, secondary, and postsecondary institutions as well as public libraries.

OCR works with ED's Office of Special Education and Rehabilitative Services to coordinate the enforcement of certain provisions of the Individuals with Disabilities Education Act with Section 504. OCR also works with ED's Office of Elementary and Secondary Education to implement the civil rights provisions of the Magnet Schools Assistance Program.

APPENDIX B

STAFFING & BUDGET

OCR's authorized staff ceiling for FY 1994 was 851 full-time equivalent (FTE) positions (made up of full-time permanent and other-than-full-time permanent staff). Twenty-one percent of the staff were located in headquarters and 79 percent were in the ten regional offices.

OCR had a total funding level of $56,570,000 for FY 1994. The following table provides budget and staffing information on OCR for the past six fiscal years.

BUDGET AND STAFFING INFORMATION

FY	Budget Estimate to Congress	Appropriation	Appropriation After Sequester Supplemental	Congressional Budget FTE Level
1989	41,341,000	40,845,000	41,635,000	820
1990	45,178,000	45,178,000	44,572,000	820
1991	49,900,000	48,405,000	48,404,371	820
1992	56,000,000	55,000,000	53,625,000	855
1993	61,400,000	56,857,000	56,402,000	858
1994	56,570,000	56,570,000	56,570,000	851

APPENDIX C

PUBLICATIONS

Contact your regional civil rights office (see Appendix D for listing) to obtain any of the publications listed below.

General

OCR's 1993 Annual Report to Congress
OCR's 1992 Annual Report to Congress
OCR's 1991 Annual Report to Congress
OCR's 1990 Annual Report to Congress
ED Facts: Information about the OCR
Notice of Nondiscrimination
How to File A Discrimination Complaint
Federal Regulations, Vocational Education Program Guidelines (March 21, 1979)
Vocational Education and Civil Rights
The Guidance Counselor's Role in Ensuring Equal Educational Opportunity
Nondiscrimination in Employment Practices in Education
What Schools Can Do to Improve Math and Science Achievement by Minority and Female Students

Title VI of the Civil Rights Act of 1964 (Title VI)

Title VI Regulations, **Federal Register**, May 9, 1980
Education and Title VI (Available in English and Spanish)
Student Assignment in Elementary and Secondary Schools and Title VI
Magnet Schools: Promoting Equal Opportunity and Quality Education
Historically Black Colleges and Universities and Higher Education Desegregation
The Provision of an Equal Education Opportunity to Limited English Proficient Students

Title IX of the Education Amendments of 1972 (Title IX)

Title IX Regulations, **Federal Register**, May 9, 1980
Federal Regulations, Policy Interpretation on Title IX Intercollegiate Athletics, December 1979
Title IX Grievance Procedures: An Introductory Manual
Title IX and Sex Discrimination (Available in English and Spanish)
Title IX Athletics Manual (Includes Regulations, Policy Interpretations, & OCR Fact Sheet)

Equal Opportunity in Intercollegiate Athletics: Requirements Under Title IX of the Education Amendments of 1972
Student Assignment in Elementary & Secondary Schools and Title IX
Sexual Harassment: It's Not Academic
Teenage Pregnancy and Parenthood Issues Under Title IX

Section 504 of the Rehabilitation Act of 1973 (Section 504)

Section 504 Regulations, **Federal Register**, May 9, 1980 (Includes December 1990 Amendment)
Auxiliary Aids and Services for Postsecondary Students with Handicaps
Discipline of Students With Handicaps in Elementary and Secondary Schools
Free Appropriate Public Education for Students with Handicaps
Placement of School Children with AIDS
Student Placement in Elementary and Secondary Schools and Section 504
Civil Rights of Students with Hidden Disabilities Under Section 504
Rights of Individuals with Handicaps Under Federal Law (Available in English and Spanish)

Age Discrimination Act of 1975

Federal Regulations, Age Discrimination Act of 1975
Federal Regulations, Department of Education, Age Discrimination Act, **Federal Register**, July 27, 1993

Americans with Disabilities Act

Department of Justice pamphlet on Americans with Disabilities Act

APPENDIX D
OCR REGIONAL OFFICES

Region I
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
Office for Civil Rights, Region I
U.S. Department of Education
J.W. McCormack Post Office and Courthouse
Room 222, 01-0061
Boston, MA 02109-4557
(617) 223-9667; TDD (617) 223-9695

Region II
New Jersey, New York, Puerto Rico, Virgin Islands
Office for Civil Rights, Region II
U.S. Department of Education
26 Federal Plaza, 33rd Floor
Room 33-130, 02-1010
New York, NY 10278-0082
(212) 264-5180; TDD (212) 264-9464

Region III
Delaware, District of Columbia, Maryland Pennsylvania, Virginia, West Virginia
Office for Civil Rights, Region III
U.S. Department of Education
3535 Market Street
Room 6300, 03-2010
Philadelphia, PA 19104-3326
(215) 596-6787, TDD (215) 596-6794

Region IV
Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee
Office for Civil Rights, Region IV
U.S. Department of Education
Post Office Box 2048, 04-3010
101 Marietta Tower-Suite 2000
Atlanta, GA 30301-2048
(404) 331-2954, TDD (404) 331-7236

Region V
Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
Office for Civil Rights, Region V
U.S. Department of Education
401 South State Street
Room 700C, 05-4010
Chicago, IL 60605-1202
(312) 886-3456 TDD (312) 353-2540

Region VI
Arkansas, Louisiana, Mississippi, Oklahoma, Texas
Office for Civil Rights, Region VI
U.S. Department of Education
1200 Main Tower Building
Suite 2260, 06-5010
Dallas, TX 75202-9998
(214) 767-3959, TDD (214) 767-3639

Region VII
Iowa, Kansas, Kentucky, Missouri, Nebraska
Office for Civil Rights, Region VII
U.S. Department of Education
10220 North Executive Hills Boulevard
8th Floor, 07-6010
Kansas City, MO 64153-1367
(816) 891-8026; TDD (816) 374-6461

Region VIII
Arizona, Colorado, Montana, New Mexico, North Dakota, South Dakota, Utah, Wyoming
Office for Civil Rights, Region VIII
U.S. Department of Education
Federal Building, Suite 310, 08-7010
1244, Speer Boulevard
Denver, CO 80204-3582
(303) 844-5695; TDD (303) 844-3417

REGION IX
California
Office for Civil Rights, IX
U.S. Department of Education
Old Federal Building
50 United Nations Plaza-Rm239,09-8010
San Francisco, CA 94102-4102
(415) 556-7000, TDD (415) 556-6806

Region X
Alaska, Hawaii, Idaho, Nevada, Oregon, Washington, American Samoa, Guam, Trust Territory of the Pacific Islands
Office for Civil Rights, Region X
U.S. Department of Education
915 Second Avenue
Room 3310, 10-9010
Seattle, WA 98174-1099
(206) 220-7880, TDD (206) 553-6419

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UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

APR 20 1995

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Pursuant to Section 203(b)(1) of the Department of Education Organization Act (DEOA), the Assistant Secretary for Civil Rights is required to submit an annual report to the Secretary of Education, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems.

In accordance with the requirements of the DEOA, I am respectfully transmitting the Fiscal Year 1994 Annual Report to Congress, which covers significant accomplishments in civil rights enforcement in education.

Respectfully,

Norma V. Cantú

Norma V. Cantú
Assistant Secretary
for Civil Rights

Enclosure

BEST COPY AVAILABLE

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202-1100

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

APR 20 1995

The Honorable Albert Gore, Jr.
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Pursuant to Section 203(b)(1) of the Department of Education Organization Act (DEOA), the Assistant Secretary for Civil Rights is required to submit an annual report to the Secretary of Education, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems.

In accordance with the requirements of the DEOA, I am respectfully transmitting the Fiscal Year 1994 Annual Report to Congress, which covers significant accomplishments in civil rights enforcement in education.

Sincerely,

Norma V. Cantú
Assistant Secretary
for Civil Rights

Enclosure

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202-1100

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

APR 20 1995

The Honorable Newt Gingrich
Speaker of the House
of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

Pursuant to Section 203(b)(1) of the Department of Education Organization Act (DEOA), the Assistant Secretary for Civil Rights is required to submit an annual report to the Secretary of Education, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems.

In accordance with the requirements of the DEOA, I am respectfully transmitting the Fiscal Year 1994 Annual Report to Congress, which covers significant accomplishments in civil rights enforcement in education.

Sincerely,

Norma V. Cantú
Assistant Secretary
for Civil Rights

Enclosure

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202-1100

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

APR 20 1995

The Honorable Richard W. Riley
Secretary of Education
Washington, D.C. 20202

Dear Secretary Riley:

Pursuant to Section 203(b)(1) of the Department of Education Organization Act (DEOA), the Assistant Secretary for Civil Rights is required to submit an annual report to the Secretary of Education, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems.

In accordance with the requirements of the DEOA, I am respectfully transmitting the Fiscal Year 1994 Annual Report to Congress, which covers significant accomplishments in civil rights enforcement in education.

Sincerely,

Norma V. Cantú
Assistant Secretary
for Civil Rights

Enclosure

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202-1100